

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) Case No. 1:10-cr-00185
)
v.) Honorable Janet T. Neff
)
JOSHUA THEO SMITH,)
)
Defendant.)

)

REPORT AND RECOMMENDATION

Pursuant to W.D. MICH. L.C.R.R. 11.1, I conducted a plea hearing in the captioned case on October 21, 2011, after receiving the written consent of defendant and all counsel. At the hearing, defendant Joshua Theo Smith entered a plea of guilty to Count 1 of the Indictment in exchange for the undertakings made by the government in the written plea agreement. In Count 1 of the Indictment, defendant is charged with conspiracy to distribute 500 grams or more of cocaine and fifty grams or more of cocaine base, both Schedule II controlled substances, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B)(ii). On the basis of the record made at the hearing, I find that defendant is fully capable and competent to enter an informed plea; that the plea is made knowingly and with full understanding of each of the rights waived by defendant; that it is made voluntarily and free from any force, threats, or promises, apart from the promises in the plea agreement; that the defendant understands the nature of the charge and penalties provided by law; and that the plea has a sufficient basis in fact.

I therefore recommend that defendant's plea of guilty to Count 1 of the Indictment be accepted, that the court adjudicate defendant guilty, and that the written plea agreement be considered for acceptance at the time of sentencing. Acceptance of the plea, adjudication of guilt, acceptance of the plea agreement, and imposition of sentence are specifically reserved for the district judge.

Date: October 24, 2011

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

NOTICE TO PARTIES

You have the right to de novo review of the foregoing findings by the district judge. Any application for review must be in writing, must specify the portions of the findings or proceedings objected to, and must be filed and served no later than 14 days after the plea hearing. *See* W.D. MICH. L.C.R.R. 11.1(d).